

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

MATTHEW MCCARTHY

Plaintiff,

v.

Civil Action No. _____

RHODE ISLAND PUBLIC TRANSIT
AUTHORITY; WILLIAM SMITH III, alias
“Supervisor #15”; MR. J alias, AND
JOHN DOE EMPLOYEES

Defendant.

NOTICE OF REMOVAL

Defendant Rhode Island Public Transit Authority (“RIPTA” or “Defendant”), files this Notice of Removal in accordance with 28 U.S.C. §§ 1331, 1367, and 1446 and hereby removes this action from the Superior Court of the State of Rhode Island, Providence County to the United States District Court for the District of Rhode Island. As its reason for removal, Defendant states:

BACKGROUND

1. By Summons and Complaint, Plaintiff Matthew McCarthy (“McCarthy” or “Plaintiff”) commenced a civil action against Defendant in Providence County Superior Court titled Matthew McCarthy v. Rhode Island Public Transit Authority; Williams Smith III, alias “Supervisor #15”; Mr. J alias, and John Doe Employees, C.A. No. PC 2018-5838 (the “Superior Court Action”). True and correct copies of the Summons and Complaint that McCarthy caused

to be served upon Defendant are attached as Exhibit A and constitutes all processes, pleadings and orders served upon Defendant in this action to the present date. 28 U.S.C. § 1446(a).

2. Defendant was served with the Summons and Complaint in the Superior Court Action on October 24, 2018. The instant Notice of Removal is being filed within 30 days of the date on which Defendant was served with the Summons and Complaint in the Superior Court Action. 28 U.S.C. § 1446(b).

3. Attached as Exhibit B is a copy of the Notice of Filing of Notice of Removal, the original of which is being filed with the Providence County Superior Court. 28 U.S.C. § 1446(d).

FEDERAL QUESTION JURISDICTION

4. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331 because the Complaint states a federal cause of action against Defendant under the Americans with Disabilities Act, 42 U.S.C. § 12102(1) and 42 U.S.C. §§ 12180, et seq. (“Federal Claims”). See Compl., at ¶¶ 67, 90-107. Thus, it is a civil action over which this Court has original “federal question” jurisdiction under 28 U.S.C. § 1331, in that the action arises under the Constitution, laws, or treaties of the United States.

5. The Court has supplemental jurisdiction over Plaintiff’s state law claims for violations of R.I. Gen. Laws §§ 40-4.1-1 et seq., §§ 42-87-1 et seq., §§ 11-24-1 et seq., §§ 42-112-1 et seq. (Count III and associated relief under Counts I & II) and his tort claims (Counts IV, V, VI). 28 U.S.C. § 1367(a). Plaintiff’s Federal Claims and state law claims arise from the same case or controversy because they emanate from Plaintiff’s allegations about his multiple aggressive confrontations with RIPTA personnel relating to his dog, and his intentionally

disorderly conduct aboard RIPTA vehicles and on RIPTA property. Therefore, this Court has supplemental jurisdiction over Plaintiff's state law claims. 28 U.S.C. § 1367(a).

REMOVAL TO THIS DISTRICT IS PROPER

6. This Notice of Removal is being filed in the District of Rhode Island, the District Court of the United States for the district and division within which the Superior Court Action is pending. 28 U.S.C. § 1446(a).

WHEREFORE, Defendant respectfully requests that the Superior Court Action be removed and hereinafter proceed in the United States District Court for the District of Rhode Island.

RHODE ISLAND PUBLIC TRANSIT
AUTHORITY,

By its attorneys,

/s/Jillian S. Folger-Hartwell
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Dated: November 12, 2018

CERTIFICATE OF SERVICE

I, Jillian S. Folger-Harwell, hereby certify that a true and accurate copy of the foregoing Notice of Removal was filed electronically by operation of the Court's CM/ECF System and served electronically as well as via first class mail upon the following counsel of record on this 12th day of November, 2018:

Paige Munro-Delotto, Esq.
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/s/Jillian S. Folger-Hartwell
Jillian S. Folger-Hartwell

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